

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

DAVID JOSSELYN,)
Petitioner,)
v.) Civil Action No. 04-10621-GAO
KATHLEEN KENNEDY,)
Respondent.)

**ASSENTED-TO MOTION TO EXTEND TIME
TO RESPOND TO PETITION FOR WRIT OF HABEAS CORPUS**

The respondent, by and through her counsel, the Attorney General of the Commonwealth of Massachusetts, hereby requests that the Court extend the time within which she must respond to the Petition for Writ of Habeas Corpus that is the subject of the captioned action. The respondent's answer or other responsive pleading presently is due on or before May 27, 2004. By this motion, the respondent requests an extension to and including July 23, 2004. The petitioner's counsel has assented to the requested extension. As grounds for this motion, the respondent states as follows:

1. The records relating to the petitioner's underlying state-court convictions are maintained by the Office of the District Attorney for Middlesex County (the "Middlesex DISTRICT ATTORNEY").
2. Upon receipt of this Court's Order, the undersigned assistant attorney general promptly made a request to the Middlesex DISTRICT ATTORNEY for assembly and production of relevant portions of the underlying state-court record, including, but not limited to, copies of the trial transcripts and post-conviction proceedings. The undersigned counsel has not yet received all of the state-court records, including the trial transcripts, the appellate briefs, or the petitioner's application for further appellate review to the Massachusetts Supreme Judicial Court.

3. Without the relevant records, the respondent cannot meaningfully evaluate threshold defenses under the Antiterrorism and Effective Death Penalty Act (AEDPA), such as whether the petitioner properly exhausted available state-court remedies as required by 28 U.S.C. § 2254(b)(1) and whether the petition is timely filed in accordance with 28 U.S.C. § 2244(d).

4. The extension sought herein will enable the respondent to compile and evaluate all of the relevant records, and, thereby, be in a position to meaningfully respond to the petition.

WHEREFORE, the present motion should be allowed and an order should enter allowing the respondent up to and including July 23, 2004 to answer or otherwise respond to the petition.

Respectfully submitted,

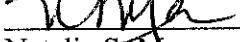
THOMAS F. REILLY
ATTORNEY GENERAL

Dated: May 26, 2004


Natalie S. Monroe (BBO # 562383)
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RULE 7.1 CERTIFICATION

I hereby certify that I conferred with the plaintiff's counsel, Rosemary Scapicchio, Esq., by telephone on May 26, 2004. Ms. Scapicchio assented to the requested extension.


Natalie S. Monroe

Certificate of Service

I, Natalie S. Monroe, hereby certify that, on May 26, 2004, I caused to be served a true and correct copy of the foregoing document by mailing a copy of the same by first-class mail, postage prepaid, and addressed to the petitioner's counsel, Rosemary C. Scapicchio, Esq., Four Longfellow Place, Suite 3703, Boston, Massachusetts 02114.

